

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:16-cr-46
	:	
vs.	:	District Judge Walter Herbert Rice
	:	Chief Magistrate Judge Sharon L. Ovington
RICHARD C. WEBBER,	:	
	:	
Defendant.	:	

REPORT AND RECOMMENDATIONS¹

This case came before the Court for a plea hearing on May 9, 2016. Assistant United States Attorney Andrew Hunt represented the Government, and Attorney James P. Fleisher represented Defendant Richard C. Webber.

Before the hearing, the parties entered into a proposed binding plea agreement pursuant to Fed. R. Crim. P. 11(c)(1)(C). (Doc. #7). Under the terms of the plea agreement, Defendant agreed to plead guilty to Count One of the Information filed in this case, which count charges that Defendant “knowingly possessed matters which contain visual depictions that had been shipped and transported using any means and facility of interstate and foreign commissioner, and that had been shipped and transported in and affecting interstate and foreign commerce, the producing of such visual depiction involved the use of prepubescent minors engaging in sexually explicit conduct, and such

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

visual depictions were of such conduct” in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2). (Doc. #2).

During the plea hearing, the undersigned had the opportunity to address Defendant in open court and to inform Defendant of all rights and privileges as set forth in Fed. R. Crim. P. 11(b)(1). Further, the undersigned carefully inquired of Defendant regarding his/her understanding of the agreement, as well as his/her competence to understand the agreement. Having fully inquired, the undersigned Judicial Officer finds that Defendant’s tendered plea of guilty to Count One of the Information was knowing, intelligent, and voluntary. Additionally, based upon the statement of facts, which were read into the record and affirmed by Defendant, the undersigned finds that there is a sufficient factual basis for finding that Defendant is in fact guilty as to Count One.

Based upon the foregoing, it is **RECOMMENDED** that the District Court accept Defendant’s plea of guilty to Count One of the Information and find Defendant guilty as charged of Defendant “knowingly possessed matters which contain visual depictions that had been shipped and transported using any means and facility of interstate and foreign commissioner, and that had been shipped and transported in and affecting interstate and foreign commerce, the producing of such visual depiction involved the use of prepubescent minors engaging in sexually explicit conduct, and such visual depictions were of such conduct” in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2). It is further **RECOMMENDED** that the District Court defer acceptance of the proposed binding plea agreement until he has the opportunity to review the pre-sentence investigation report.

Pending the Court's acceptance of Defendant's guilty plea, Defendant has been referred to the Probation Department for a pre-sentence investigation and preparation of the pre-sentence investigation report.

May 11, 2016

s/ Sharon L. Ovington
Sharon L. Ovington
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59(b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Pursuant to Fed. R. Crim. P. 49(c) and Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days if this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).